

Response to First Office Action
Docket No. 020.0347.US.CON

REMARKS

Claims 1-19 are pending. Claims 1, 8, and 15 have been amended.
Claims 1-19 remain in the application. No new matter has been entered.

The initialed Information Disclosure Statement (IDS) filed on August 22,
5 2003 was inadvertently enclosed with an Office action mailed on September 30,
2004 for commonly-assigned U.S. patent application, Serial No. 10/646,679.
Placement of the IDS into the file wrapper for this patent application is
respectfully requested.

Claims 1-19 stand rejected under 35 U.S.C. §101 for double patenting
10 over Claims 1-19 of commonly-assigned U.S. Patent No. 6,478,737 ('737), issued
on November 12, 2002 to Bardy. Claims 1, 8, and 15 have been amended to
recite analyzing the physiological measures and the quality of life measures stored
in the patient care record *through derived measure determination and statistical*
value calculation (emphasis added). Support for these amendments can be found
15 in the specification on page 19, line 17 through page 20, line 16. Such limitation
is not found in the claims of the '737 patent and serves to sufficiently distinguish
the invention. Withdrawal of the rejection under 35 U.S.C. §101 is respectfully
requested.

Claims 1-19 stand rejected under the judicially-created doctrine of
20 obviousness-type double patenting over Claims 1-23 of commonly-assigned U.S.
Patent No. 6,203,495 ('495), issued March 20, 2003 to Bardy, Claims 1-62 of
commonly-assigned U.S. Patent No. 6,312,378 ('378), issued November 6, 2001
to Bardy, and Claims 1-15 of commonly-assigned U.S. Patent No. 6,331,160
('160), issued December 18, 2001 to Bardy. A Terminal Disclaimer is enclosed
25 disclaiming the terminal part of any patent granted on the instant patent
application that would extend beyond the expiration date of the '495, '378, and
'160 patents. Withdrawal of the rejection for double-patenting is respectfully
requested.

The prior art made of record and not relied upon has been reviewed by the
30 applicant and is considered to be no more pertinent than the prior art references


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already applied.

Claims 1-19 are believed to be in condition for allowance. Entry of the foregoing amendments is requested and a Notice of Allowance is earnestly solicited. Please contact the undersigned at (206) 381-3900 regarding any
5 questions or concerns associated with the present matter.

Respectfully submitted,

10 Dated: December 28, 2004

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20 OA Response